

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of
Bomers

Serial No.: **10/699,968**

Filed: **November 3, 2003**

For: **Universal Computer Input Event
Translator**

Attorney's Docket No: **5168-001**

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Patent Pending

Examiner: Mr. Sherrod Keaton

Group Art Unit: 2175

Confirmation No.: 5026

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Dear Sir or Madam:

In addition to the arguments already submitted by the applicant with the Appeal Brief dated 2 Jan. 2009, Applicant submits this Reply Brief according to the requirements of MPEP §1208 to address specific points of the Examiner's Answer mailed 15 April 2009. This reply brief is timely filed within two months of the Examiner's Answer. While no fees should be required, if any fees or charges are required, the Commissioner is hereby authorized to charge them to Deposit Account 18-1167.

REPLY BRIEF

I. STATUS OF CLAIMS

Claims 1-4 and 6-24 are pending; claim 5 is canceled. All pending claims are rejected, and all such rejections are appealed.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-4, 6-8, 11-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. 2004/0263477 A1 (hereinafter "Davenport"), in view of U.S. Pub. 2004/0257341 A1 (hereinafter "Bear"). Please note that Item 6 in the Final Office Action of 7/22/2008 fails to include claims 15, 23, and 24 in its listing of rejected claims, but the detailed arguments set forth Davenport/Bear obviousness rejections against them.

Claims 9 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Davenport and Bear, in further view of U.S. Pub. 2003/0071842 A1 (hereinafter "King").

Claim 23 is further rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claim 23 is further rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

III. ARGUMENT

The 112 rejection re "scaling" in claim 23

The examiner's answer (the "Answer") states that undue experimentation would be required to "figure out" the scaling aspects of the claimed invention. This argument must be understood as effectively saying that one of ordinary skill in the related computer arts would not

understand how to mathematically alter the values of incoming input event parameters. That assertion is not credible.

Paragraph [0010] of the filed application gives de-sensitizing mouse movements as an example of the contemplated mathematical scaling, and it is without merit to argue that undue experimentation would be required to figure out how to apply scaling to the event parameters of incoming input events. Mouse scaling, such as for increasing or decreasing mouse sensitivity is known, such as in the context of adjusting mouse performance for video game play. What is at issue in claim 23 is the use of mathematical scaling as an advantageous feature done within the context of the claimed event translation.

The examiner's chief complaint, as explained at the bottom of p. 18 in the Reply (and on through to the top of p. 19) is that the term "mathematical scaling" does not appear in the specification, and that the examiner "is unsure if the office is to make this leap and connect scaling with the mathematical function and come up with mathematical scaling." Of course, as Section 2163 of the MPEP teaches, the terminology used in the claims need not identically appear in the specification—citing to Martin v. Johnson, 454 F.2d 746, 751, 172 USPQ 391, 395 (CCPA 1972), stating that "the description need not be in *ipsis verbis* [i.e., 'in the same words'] to be sufficient." (Emphasis in original.)

However, paragraph [0010] specifically uses the term "scales" when explaining that mouse inputs could be desensitized. Any one of ordinary skill in the art would understand that scaling as being mathematical in nature—e.g., dividing the input values to reduce their values. That same paragraph also explains that such input events can be inverted, smoothed, time delayed, etc. While not all such operations are necessarily "scaling," they all would be understood as mathematical operations. Paragraph [0017] further teaches that mouse input events can be translated via a mathematical function, such as a function to invert them, smooth them, etc.

Given these teachings, and given any reasonable view of the level of knowledge necessarily present in one of ordinary skill in the relevant computer- and software-related arts, Applicant believes that it is not credible to argue that the term "mathematical function" as used in claim 23 is not supported by the specification, or that one of ordinary skill in the art would be left to carry out undue experimentation in attempting to scale mouse input events, or others, within the context of the claimed invention's input translation.

The disagreement over the combinability of Davenport and Bear

On p. 19, third paragraph, the examiner cites to Anderson's-Black Rock, Inc. v. Pavement Salvage Co., 396 U.S. 57, 90 S.Ct. 305 (1969) in arguing that the inclusion of the claimed invention in a PC does not make that invention novel, where "the two preexisting elements in combination did no more than they would in separate, sequential operation."

Applicant believes this argument is misplaced. Davenport explicitly and repeatedly teaches that its invention derives advantages based on being independently implemented separate from any PC, game system, etc. In contrast, Bear is explicitly implemented in a PC, but it is not an event translator within any sensible understanding of that term, and the argued-for combination of Davenport with Bear therefore is at odds with the explicit teachings in Davenport. See paragraph [0061] of Davenport, stating that it is a salient and significant aspect of Davenport's invention that it is implemented in a program memory and microcontroller that are independent of any computer or game to which the invention may be connected.

Thus, this rejection is not under the ambit of Black Rock, where Applicant has claimed A + B, with Davenport providing A and Bear providing B. Davenport repeatedly emphasizes event translation with dedicated hardware and program instructions in a separate event translator; Bear teaches an alleged improved "navigation" interface for a computer and plainly is not an event translator. Bear finds its way into these rejections merely because it discusses operating system hooks, PCs, and the Windows operating system.

Event swallowing re claims 6 and 17

Claims 6 and 17 include explicit limitations to program instructions directed to "swallowing" an incoming input event. The filed application (paragraph 0022) explains that a "swallowed" event is hidden from other programs/processes running on the computer.

On p. 20, the examiner states that "[t]he swallowing event can take on many forms, for example, making one event appear as another by modifying the execution." One immediately sees that the examiner is incorrectly conflating event translation, where one event is translated or otherwise modified, with event swallowing. With swallowing, the incoming event is hidden from other programs/processes running on the computer. Applicant carefully explained event swallowing and did not teach or suggest that, as the examiner says, "event swallowing can take on many forms...."

The examiner's statement on p. 20 that multiple alternative options for what swallowing an event can be understood to mean is a fiction created by the examiner. The filed specification plainly describes swallowing—the term is nearly self-defining in any case—and the examiner's interpretation of event swallowing is at odds with the filed specification and at odds with the meaning that one of ordinary skill in the art would give, in light of the specification.

The time-delay limitations of claim 20

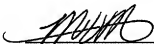
Claim 20 includes explicit limitations to program instructions to perform a desired input event translation including program instructions to time-delay input events of the selected type according to a desired time delay value. One sees a functional example of this in the rules processing selector field 128 of Fig. 4, and paragraph [0017] (among others) explains that the IDT program 10 of the present invention includes instructions allowing a user to configure the time delay imparted to input events, as part of defining input event translation behavior.

The teachings in Davenport relied on in rejecting claim 20 merely state that a human operator might delay between pressing a mouse button and releasing that mouse button. Against Applicant's arguments that Davenport's "time delay" teachings were not part of Davenport's event translator or its configuration, but rather were simply Davenport's observations that key press and key release limitations were dependent on human operator timing, the Answer—p. 21—simply says that the "[t]he button press in Davenport present [sic] a time delay because the pressing of this button would normally cause an action to be performance but once the system recognizes the extended press the signal is not sent (time delay) caused by the system not user [sic]."

Again, paragraph [0066] of Davenport, which is critically relied upon in the rejection, simply states that Davenport can recognize the button press of a mouse click separately from the button release. All "timing" in this context is driven by the user's button pressing and releasing timing. The last sentence of paragraph [0066] states that the "user can change the time interval between the mouse down action and the mouse up action by simply holding the mouse button down for a desired amount of time." Stating that a user can delay the mouse button release cannot be construed as the claimed limitation of program instructions to time-delay input events of a selected event type by a desired amount of time.

Respectfully submitted,

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